



GRANTED

Movant shall serve copies of this ORDER on any pro se parties, pursuant to CRCP 5, and file a certificate of service with the Court within 10 days.

Robert S. Hyatt

DISTRICT COURT, CITY AND COUNTY OF DENVER,
COLORADO

1437 Bannock Street
Denver, Colorado 80202

THE STATE OF COLORADO, ex rel. John W. Suthers,
Attorney General,

Plaintiff,

v.

DONALD STERLING WHITLOCK et. al.

Defendants.

ROBERT S. HYATT

District Court Judge

DATE OF ORDER INDICATED ON ATTACHMENT

▲ COURT USE ONLY ▲

ATTORNEYS FOR STATE OF COLORADO:

JOHN W. SUTHERS, Attorney General
ANDREW P. McCALLIN, Reg. No. 20909*
First Assistant Attorney General
ERIK R. NEUSCH, Reg. No. 33146*
Assistant Attorney General
1525 Sherman Street
Denver, Colorado 80203
Phone: 303-866-4500
*Counsel of Record

ATTORNEY FOR DONALD S. WHITLOCK:

THOMAS J. HAMMOND, Reg. No. 14782
955 Bannock Street, Suite 200
Denver, Colorado 80204
Phone: 303-321-7902

Case No.: 09cv11331

Courtroom: 19

CONSENT JUDGMENT AND PERMANENT INJUNCTION

Plaintiff, the State of Colorado, *ex rel.* John W. Suthers, Attorney General (the "State"), and Defendant, Donald Sterling Whitlock ("Defendant"), (collectively the "Parties") state that they have fully and finally resolved all of the disputes between them arising out of the conduct alleged in the Complaint filed on December 9, 2009. As such, the Parties present to the Court this Consent Judgment and Permanent Injunction ("Consent Judgment"). By their authorized signatures, the Parties stipulate to the Court that they understand and agree to the terms of this Consent Judgment; that they consulted with legal counsel concerning this Consent Judgment; that they accept the legal consequences involved in agreeing to this Consent Judgment; that they waive all rights of appeal from this Consent Judgment; that they are aware of the duties placed upon them by the Consent Judgment and are desirous and capable of carrying out their duties in full; that they acknowledge receipt of and have full and actual notice of the Consent Judgment;

that they waive issuance and service of writ of injunction; and that this Consent Judgment represents a compromise and settlement of all matters arising out of facts alleged by the State in the Complaint.

Defendant denies the allegations set forth in the Complaint, and the Parties agree and stipulate that neither this Consent Judgment nor the payment of money or other actions by the Defendant constitutes an admission by Defendant of any violation of the Colorado Consumer Protection Act, §§ 6-1-101 *et seq.*, C.R.S. (2009) ("CCPA").

The Parties submit to the jurisdiction of this Court and venue in the City and County of Denver, and do not contest the entry of this Consent Judgment.

As all Parties have approved and agree to entry of this Consent Judgment by their authorized signatures below, the Court, after being fully advised in this matter, FINDS, CONCLUDES AND ORDERS AS FOLLOWS:

- i. That it has jurisdiction of the Parties and subject matter of this suit;
- ii. That the settlement of this suit is fair, reasonable, and just; and
- iii. That it would be in the best interest of the Parties if the Court approves the settlement and renders judgment accordingly.

Based on these findings, and having considered the representations made by the Parties, the Court is of the opinion that a permanent injunction should be issued as set forth in this Consent Judgment, and that the State is entitled to recover from Defendant as follows:

PERMANENT INJUNCTION

1. Defendant, including any persons in active concert or participation with Defendant who receive notice of this Consent Judgment, is permanently enjoined from conducting any mortgage-related or other financial services business in the state of Colorado.
2. Defendant, including any persons in active concert or participation with Defendant who receive notice of this Consent Judgment, must provide notice to the State if he operates, incorporates, forms, or obtains an ownership interest in, any business in the state of Colorado.
3. Defendant, including any persons in active concert or participation with Defendant who receive notice of this Consent Judgment, shall comply with the CCPA as now constituted or as may hereafter be amended in conducting business in the state of Colorado, whether as an individual, partnership, corporation, limited liability company, or any other legal entity.
4. Defendant, including any persons in active concert or participation with Defendant who receive notice of this Consent Judgment, is permanently enjoined from using any aliases, identities, or names other than his own in conducting any business, opening any account, or conducting any other transaction in the state of Colorado.

5. Defendant, including any persons in active concert or participation with Defendant who receive notice of this Consent Judgment, is permanently enjoined from soliciting or accepting payment for any services of any kind in connection with any company organized or formed by him, his agent, or any person under his control, in the state of Colorado before the date that this Consent Judgment is entered by the Court.

MONETARY RELIEF

Consumer Restitution

6. Defendant shall pay \$136,156.33 to the "Colorado Department of Law" for consumer restitution pursuant to § 6-1-110(1), C.R.S. (2009), within two (2) days of the Court signing the Consent Judgment. These funds, and any interest thereon, shall be held in trust by the Attorney General for purposes of making restitution to the persons harmed by the conduct alleged in the Complaint. Such funds shall be distributed by and at the discretion of the Attorney General.

Civil Penalties

7. Defendant shall also pay \$20,000.00 to the "Colorado Department of Law" for a civil penalty pursuant to § 6-1-112, C.R.S. (2009) in accordance with the following payment schedule: Defendant shall make monthly payments of no less than \$1,000.00 beginning April 15, 2010 and on the 15th business day of every month thereafter until the entire \$20,000.00 amount is satisfied, which shall be paid in its entirety no later than December 15, 2011.

Fees and Costs

8. Defendant shall also pay \$20,000.00 to the "Colorado Department of Law" for costs and attorney fees pursuant to § 6-1-113, C.R.S. (2009) in accordance with the following payment schedule: Defendant shall make monthly payments of no less than \$1,000.00 beginning January 16, 2012 and on the 15th business day of every month thereafter until the entire \$20,000.00 amount is satisfied, which shall be paid in its entirety no later than September 16, 2013, which monies, and any interest thereon, shall be held in trust by the Attorney General to be used first for reimbursement of the State's actual costs and attorney fees and, second, to be held along with any interest thereon, in trust by the Attorney General for future consumer education, consumer fraud, or antitrust enforcement actions.

Payment Instructions

9. For each of the above payments, a certified check shall be made payable to the "Colorado Department of Law," reference "State v. Whitlock settlement," and be delivered to:

Colorado Department of Law
Attn: Don Finch
Consumer Protection Section
1525 Sherman Street
Denver, Colorado 80203

10. Defendant may increase the payment amounts in paragraphs 7 and 8 at any time without penalty. If Defendant fails to make a payment pursuant to this Consent Judgment, the State may accelerate all payments due hereunder and collect the entire amount due from him. In such event, the State shall be entitled to recover its costs and attorney fees in collecting such amounts and pursuing relief under this Consent Judgment.

11. If Defendant makes a partial payment under this Consent Judgment, the State's acceptance of a partial payment does not prevent it from declaring the Consent Judgment breached and collecting the full amount due and to seek other remedies, including contempt. In such event, the State shall be entitled to recover all its costs and attorney fees in collecting such amounts and pursuing relief under this Consent Judgment. Partial payments may be distributed at the discretion of the Attorney General and without the need for all future payments to be made.

Suspended Penalty

12. Defendant warrants and represents that the following deposits into various Bank of America accounts constitute each and every transaction in which a consumer wired or deposited money based on representations or conduct by the Defendant. If, however, the State discovers that Defendant, or any entity or person acting in concert with, or under the control of, Defendant has received an additional deposit between April 1, 2007 and March 4, 2010 as a result of a transaction that is similar to the type of conduct and scheme alleged in the Complaint and that is not listed below, Defendant stipulates to and the Court shall enter a judgment against Defendant in the amount of \$500,000.00 as a penalty.

GE Real Estate Holdings, LLC

11/17/2009:	\$15,000
10/02/2009:	\$15,000

GE Capital Real Estate, LLC

08/24/2009:	\$19,970
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Allianz US Short Term Fund III, LLC

7/20/2009:	\$5,000 - <i>\$1,363.67 of which frozen by Bank of America</i>
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Global High Yield Fund II, LLC

04/07/2009:	\$5,000
02/17/2009:	\$12,500

AXA Private Equity Holdings, LLC

01/06/2009: \$10,000 -*transfer reversed*
01/06/2009: \$10,000 -*transfer reversed*

Allstate Investments, LLC

05/30/2008: \$20,000

Allstate Private Equity, LLC

07/15/2008: \$25,000

AIG Real Estate, LLC

01/23/2008 \$35,000 -*\$14,950 of which frozen by Bank
of America*

AIG Real Estate Holdings, LLC

01/10/2008: \$20,000-*full amount refunded*

This \$500,000.00 penalty is suspended until such time as the State provides written notice to the Court and to the Defendant that the State has discovered a transaction that is not listed above. Upon such notice, Defendant expressly waives any objection to the imposition of a penalty. If the State has demonstrated to the Court a good-faith basis for Defendant's involvement in a transaction equal to or greater than \$2,000, a judgment shall be entered against Defendant for \$500,000.00 as a penalty. However, only for transactions less than \$2,000, the State must establish that Defendant knowingly failed to disclose such transaction for the penalty to apply. In either event, the penalty then becomes immediately due and payable, and is in addition to the other monetary relief set forth in this Consent Judgment.

13. For any violations of this Consent Judgment, the State reserves all rights and remedies under the law, including § 6-1-112(1)(b), C.R.S. (2009), which shall be in addition to any other penalty set forth herein.

14. Defendant waives any objection to the entry of judgment against the limited liability companies named in the Complaint and will cooperate in the judgment being entered.

15. The Attorney General may search the Defendant's computer, which it obtained by an order an impoundment, and obtain any information therein.

16. The obligations set forth in this Consent Judgment are continuing and are not subject to discharge in bankruptcy, because the award is a fine, penalty, or forfeiture that is payable to and for the benefit of a governmental entity and not compensation for actual pecuniary loss.

OTHER TERMS AND CONDITIONS

17. **Dismissal of Erin Reese Whitlock.** Within five (5) days of the Court signing the Consent Judgment, the State shall file with the Court a stipulation of dismissal with prejudice of all claims against Defendant Erin Reese Whitlock.

18. **No Admission.** This Consent Judgment shall not constitute an admission of wrongdoing by Defendant, nor shall it be cited as such by the State. This Consent Judgment shall not be admissible in any other proceeding as evidence of wrongdoing.

19. **Enforcement.** This Court shall retain jurisdiction over this matter for the purposes of (a) enabling the State to apply, at any time, for enforcement of any provision of this Consent Judgment and for sanctions or other remedies for any violation of this Consent Judgment, including contempt; and (b) enabling any party to this Consent Judgment to apply, upon giving 30 days written notice to all other Parties, for such further orders and directions as might be necessary or appropriate either for the construction or enforcement of this Consent Judgment or for the modification or termination of one or more injunctive provisions.

20. **Cooperation.** Defendant agrees to cooperate with all investigations and other proceedings that the State may bring to enforce the terms of this Consent Judgment, including within this cooperation agreement are the obligations to:

- (a) Appear for hearings, depositions, or provide testimony in any form;
- (b) Produce documents, records, electronic records, or any other tangible things in response to a subpoena or other written request issued by the State; and
- (c) Accept a subpoena from the State without need for service of process.

21. **No Third Party Beneficiaries Intended.** This Consent Judgment is not intended to confer upon any person any rights or remedies, including rights as a third-party beneficiary. This Consent Judgment is not intended to create a private right of action on the part of any person or entity other than the Parties hereto.

22. **Private Parties Retain Rights.** This Consent Judgment shall not be construed to affect the rights of any private party to pursue remedies pursuant to § 6-1-113, C.R.S. (2009), or under any other statute or common law.

23. **No Release by Any Other Government Authority.** Nothing in this Consent Judgment shall be construed to release claims held by any other government authority.

24. **Violation of this Consent Judgment.** A violation of any of the terms of this Consent Judgment shall constitute a prima facie violation of the CCPA and shall, in addition to resulting

in the payments detailed above, give rise to remedial and punitive sanctions available under Rule 107 of the Colorado Rules of Civil Procedure.

25. *Service of Notices and Process.* Service of notices and process required or permitted by this Consent Judgment or its enforcement shall be in writing and delivered on the following persons, or any person subsequently designated in writing by the Parties:

To Defendant Donald S. Whitlock:

Thomas J. Hammond
Attorney at Law
955 Bannock Street, Suite 200
Denver, Colorado 80204

To the State of Colorado:

Andy P. McCallin
First Assistant Attorney General
Erik R. Neusch
Assistant Attorney General
Consumer Protection Section
Colorado Department of Law
1525 Sherman Street
Denver, Colorado 80203

Any party may change the designated persons and address for delivery with respect to itself by giving written notice to the other party as specified herein.

26. *Waiver.* The failure of any party to exercise any rights under this Consent Judgment shall not be deemed a waiver of any right or any future rights.

27. *Severability.* If any part of this Consent Judgment shall for any reason be found or held invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder hereof, which shall survive and be construed as if such invalid or unenforceable part had not been contained herein

28. *Conflict with Subsequent Law.* In the event that any applicable law conflicts with any provision hereof, making it impossible for Defendant to comply both with the law and with the provisions of this Consent Judgment, the provisions of the law shall govern.

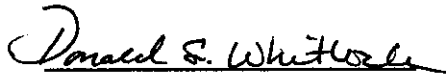
29. *Counterparts.* This Consent Judgment may be signed in one or more counterparts, each of which shall be deemed an original, but which together shall constitute the Consent Judgment. Facsimile copies of this Consent Judgment and the signatures hereto may be used with the same force and effect as an original.

30. **Inurement.** This Consent Judgment is binding and inures to the benefit of the Parties hereto and their respective successors and assigns

31. **Amendment.** This Consent Judgment may be amended solely by written agreement signed by the State and by the Defendant.

32. **No Other Representations.** There are no other representations, agreements or understandings between Defendant and the State that are not stated in writing herein.

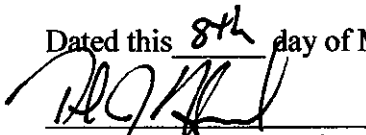
Dated this 5 day of March, 2010.


DONALD S. WHITLOCK

STREET: 1900 S Ocean Blvd #9A
CITY/STATE/ZIP: Pompano Beach, FL 33062
TELEPHONE NO. 954-234-1060

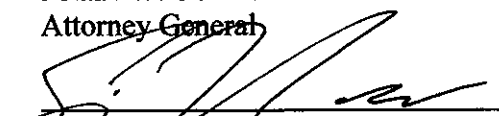
AGREED AS TO FORM ON BEHALF OF DEFENDANT DONALD S. WHITLOCK:

Dated this 8th day of March, 2010.


THOMAS J. HAMMOND
955 Bannock Street, Suite 200
Denver, Colorado 80204
Attorney for Donald S. Whitlock

Dated this 11th day of March, 2010.

JOHN W. SUTHERS
~~Attorney General~~


ANDREW P. MCCALLIN
First Assistant Attorney General
ERIK R. NEUSCH
Assistant Attorney General
Consumer Protection Section
Colorado Department of Law
1525 Sherman Street
Denver, Colorado 80203

This document constitutes a ruling of the court and should be treated as such.

Court: CO Denver County District Court 2nd JD

Judge: Robert Scott Hyatt

File & Serve

Transaction ID: 30009038

Current Date: Mar 22, 2010

Case Number: 2009CV11331

Case Name: ST OF COLO vs. WHITLOCK, DONALD STERLING et al

Court Authorizer: Robert Scott Hyatt

/s/ Judge Robert Scott Hyatt